

109TH CONGRESS  
2D SESSION

# S. 3834

To amend the Controlled Substances Act to address online pharmacies.

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IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2006

Mr. SESSIONS (for himself and Mrs. FEINSTEIN) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Controlled Substances Act to address online  
pharmacies.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Online Pharmacy Con-  
5       sumer Protection Act of 2006”.

1 **SEC. 2. AMENDMENTS TO THE CONTROLLED SUBSTANCES**  
2 **ACT RELATING TO THE DELIVERY OF CON-**  
3 **TROLLED SUBSTANCES OR PRESCRIPTION**  
4 **DRUGS BY MEANS OF THE INTERNET.**

5 (a) IN GENERAL.—Section 102 of the Controlled  
6 Substances Act (21 U.S.C. 802) is amended by adding at  
7 the end the following:

8 “(47) The term ‘Internet’ means collectively the  
9 myriad of computer and telecommunications facili-  
10 ties, including equipment and operating software,  
11 which comprise the interconnected worldwide net-  
12 work of networks that employ the Transmission  
13 Control Protocol/Internet Protocol, or any prede-  
14 cessor or successor protocol to such protocol, to com-  
15 municate information of all kinds by wire or radio.

16 “(48) The term ‘deliver, distribute, or dispense  
17 by means of the Internet’ refers, respectively, to any  
18 delivery, distribution, or dispensing of a controlled  
19 substance or prescription drug that is caused or fa-  
20 cilitated by means of the Internet.

21 “(49) The term ‘online pharmacy’—

22 “(A) means a person, entity, or Internet  
23 site, whether in the United States or abroad,  
24 that delivers, distributes, or dispenses, or offers  
25 to deliver, distribute, or dispense, a controlled

1 substance or prescription drug by means of the  
 2 Internet; and

3 “(B) does not include—

4 “(i) manufacturers or distributors  
 5 registered under subsection (a), (b), (c), or  
 6 (d) of section 303 who do not dispense  
 7 controlled substances or prescription  
 8 drugs;

9 “(ii) nonpharmacy practitioners who  
 10 are registered under section 303(f); or

11 “(iii) mere advertisements that do not  
 12 attempt to facilitate an actual transaction  
 13 involving a controlled substance or pre-  
 14 scription drug.

15 “(50) The term ‘prescription drug’ means a  
 16 prescription drug as determined under the Federal  
 17 Food, Drug, and Cosmetic Act.

18 “(51) The term ‘homepage’ means the first  
 19 page of a website that is viewable on the Internet.”.

20 (b) REGISTRATION REQUIREMENTS.—Section 303 of  
 21 the Controlled Substances Act (21 U.S.C. 823) is amend-  
 22 ed by adding at the end the following new subsection:

23 “(i) DISPENSER OF CONTROLLED SUBSTANCES OR  
 24 PRESCRIPTION DRUGS BY MEANS OF THE INTERNET.—

25 (1) A pharmacy that seeks to deliver, distribute, or dis-

1   pense by means of the Internet a controlled substance or  
 2   prescription drug shall obtain a separate registration spe-  
 3   cifically authorizing such activity, in accordance with regu-  
 4   lations promulgated by the Attorney General. In deter-  
 5   mining whether to grant an application for such registra-  
 6   tion, the Attorney General shall apply the factors set forth  
 7   in subsection (f).

8       “(2) Registration under this subsection shall be in  
 9   addition to, and not in lieu of, registration under sub-  
 10   section (f).

11       “(3) This subsection does not apply to pharmacies  
 12   that merely advertise by means of the Internet but do not  
 13   attempt to facilitate an actual transaction involving a con-  
 14   trolled substance or prescription drug by means of the  
 15   Internet.”.

16       (c) REPORTING REQUIREMENTS.—Section 307(d) of  
 17   the Controlled Substances Act (21 U.S.C. 827(d)) is  
 18   amended by—

19           (1) designating the text as paragraph (1); and

20           (2) inserting after paragraph (1), as so des-  
 21   ignated by this Act, the following new paragraph:

22       “(2) A pharmacy registered under section 303(i) shall  
 23   report to the Attorney General the controlled substances  
 24   or prescription drugs dispensed under such registration,

1 in such manner and accompanied by such information as  
 2 the Attorney General by regulation shall require.”.

3 (d) ONLINE PRESCRIPTION REQUIREMENT.—Section  
 4 309 of the Controlled Substances Act (21 U.S.C. 829) is  
 5 amended by adding at the end the following new sub-  
 6 section:

7 “(e) CONTROLLED SUBSTANCES AND PRESCRIPTION  
 8 DRUGS DISPENSED BY MEANS OF THE INTERNET.—(1)  
 9 As used in this subsection—

10 “(A) the term ‘valid prescription’ means a pre-  
 11 scription that is issued for a legitimate medical pur-  
 12 pose in the usual course of professional practice that  
 13 is based upon a qualifying medical relationship by a  
 14 practitioner registered by the Attorney General  
 15 under this part;

16 “(B) the term ‘qualifying medical relation-  
 17 ship’—

18 “(i) means a medical relationship that ex-  
 19 ists when the practitioner—

20 “(I) has conducted at least one med-  
 21 ical evaluation with the user in the phys-  
 22 ical presence of the practitioner, without  
 23 regard to whether portions of the evalua-  
 24 tion are conducted by other health profes-  
 25 sionals; or

1 “(II) conducts a medical evaluation of  
2 the patient as a covering practitioner and  
3 is not prescribing a controlled substance in  
4 schedule I, II, III, or IV; and

5 “(ii) shall not be construed to imply that  
6 one medical evaluation described in clause (i)  
7 demonstrates that a prescription has been  
8 issued for a legitimate medical purpose within  
9 the usual course of professional practice; and

10 “(C) the term ‘covering practitioner’ means,  
11 with respect to a patient, a practitioner who con-  
12 ducts a medical evaluation, without regard to wheth-  
13 er the medical evaluation of the patient involved is  
14 an in-person evaluation, at the request of a practi-  
15 tioner who has conducted at least one in-person  
16 medical evaluation of the patient and is temporarily  
17 unavailable to conduct the evaluation of the patient.

18 “(2) In addition to the requirements of subsections  
19 (a) through (c), no controlled substance or prescription  
20 drug may be delivered, distributed, or dispensed by means  
21 of the Internet without a valid prescription.”.

22 (e) ONLINE PRESCRIPTION REQUIREMENTS.—The  
23 Controlled Substances Act is amended by adding after sec-  
24 tion 310 (21 U.S.C. 830) the following:

1 “ONLINE PHARMACY LICENSING AND DISCLOSURE  
2 REQUIREMENTS

3           “SEC. 311. (a) IN GENERAL.—An online pharmacy  
4 shall display in a visible and clear manner on its homepage  
5 a statement that it complies with the requirements of this  
6 section with respect to the delivery or sale or offer for sale  
7 of controlled substances or prescription drugs and shall  
8 at all times display on the homepage of its Internet site  
9 a declaration of compliance in accordance with this sec-  
10 tion.

“(b) **LICENSURE.**—Each online pharmacy shall comply with the requirements of State law concerning the licensure of pharmacies in each State from which it, and in each State to which it, delivers, distributes, or dispenses or offers to deliver, distribute, or dispense controlled substances or prescription drugs by means of the Internet.

17       “(c) COMPLIANCE.—No online pharmacy or practi-  
18   tioner shall deliver, distribute, or dispense by means of the  
19   Internet a controlled substance or prescription drug with-  
20   out a valid prescription (as defined in section 309(e)) and  
21   each online pharmacy shall comply with all applicable re-  
22   quirements of Federal and State law.

23 “(d) INTERNET SITE DISCLOSURE INFORMATION.—  
24 Each online pharmacy site shall post in a visible and clear

1 manner on the homepage of its Internet site or on a page  
2 directly linked from its homepage the following:

3 “(1) The name of the owner, street address of  
4 the online pharmacy’s principal place of business,  
5 telephone number, and email address.

6 “(2) A list of the States in which the online  
7 pharmacy, and any pharmacy which dispenses, deliv-  
8 ers, or distributes a controlled substance or prescrip-  
9 tion drug on behalf of the online pharmacy, is li-  
10 censed to dispense controlled substances or prescrip-  
11 tion drugs and any applicable license number.

12 “(3) For each pharmacy identified on its license  
13 in each State in which it is licensed to engage in the  
14 practice of pharmacy and for each pharmacy which  
15 dispenses or ships controlled substances or prescrip-  
16 tion drugs on behalf of the online pharmacy:

17 “(A) The name of the pharmacy.

18 “(B) The street address of the pharmacy.

19 “(C) The name, professional degree, and  
20 licensure of the pharmacist-in-charge.

21 “(D) The telephone number at which the  
22 pharmacist-in-charge can be contacted.

23 “(E) A certification that each pharmacy  
24 which dispenses or ships controlled substances  
25 or prescription drugs on behalf of the online



1 pharmacy is registered under this part to de-  
2 liver, distribute, or dispense by means of the  
3 Internet controlled substances or prescription  
4 drugs.

5 “(4) The name, address, professional degree,  
6 and licensure of practitioners who prescribe con-  
7 trolled substances or prescription drugs on the basis  
8 of information obtained through the Internet site.

9 “(5) A telephone number or numbers at which  
10 the practitioners described in paragraph (4) may be  
11 contacted.

12 “(6) The following statement, unless revised by  
13 the Attorney General by regulation: ‘This online  
14 pharmacy will only dispense a controlled substance  
15 or prescription drug to a person who has a valid pre-  
16 scription issued for a legitimate medical purpose  
17 based upon a medical relationship with a prescribing  
18 practitioner, which includes at least one prior in-per-  
19 son medical evaluation. This online pharmacy com-  
20 plies with section 309(e) of the Controlled Sub-  
21 stances Act (21 U.S.C. 829(e)).’.

22 “(e) NOTIFICATION.—(1) Thirty days prior to offer-  
23 ing a controlled substance or prescription drug for sale,  
24 delivery, distribution, or dispensing, the online pharmacy  
25 shall notify the Attorney General, in the form and manner

1 as the Attorney General shall determine, and the State  
2 boards of pharmacy in any States in which the online  
3 pharmacy offers to sell, deliver, distribute, or dispense  
4 controlled substances or prescription drugs.

5 “(2) The notification required under paragraph (1)  
6 shall include—

7 “(A) the information required to be posted on  
8 the online pharmacy’s Internet site under subsection  
9 (d) and shall notify the Attorney General and the  
10 applicable State boards of pharmacy, under penalty  
11 of perjury, that the information disclosed on its  
12 Internet site under to subsection (d) is true and ac-  
13 curate;

14 “(B) the online pharmacy’s Internet site ad-  
15 dress and a certification that the online pharmacy  
16 shall notify the Attorney General of any change in  
17 the address at least 30 days in advance; and

18 “(C) the Drug Enforcement Administration  
19 registration numbers of any pharmacies and practi-  
20 tioners referred to in subsection (d), as applicable.

21 “(3) An online pharmacy that is already operational  
22 as of the effective date of this section, shall notify the At-  
23 torney General and applicable State boards of pharmacy  
24 in accordance with this subsection not later than 30 days  
25 after the effective date of this section.

1       “(f) DECLARATION OF COMPLIANCE.—On and after  
 2 the date on which it makes the notification under sub-  
 3 section (e), each online pharmacy shall display on the  
 4 homepage of its Internet site, in such form as the Attorney  
 5 General shall by regulation require, a declaration that it  
 6 has made such notification to the Attorney General.

7       “(g) REPORTS.—Any statement, declaration, notifi-  
 8 cation, or disclosure required under this section shall be  
 9 considered a report required to be kept under this part.”.

10       (f) OFFENSES INVOLVING CONTROLLED SUB-  
 11 STANCES IN SCHEDULES III, IV, AND V.—Section 401(b)  
 12 of the Controlled Substances Act (21 U.S.C. 841(b)) is  
 13 amended—

14               (1) in paragraph (1)—

15                       (A) in subparagraph (C), by striking “1  
 16 gram of” before “flunitrazepam”;

17                       (B) in subparagraph (D), by striking “or  
 18 in the case of any controlled substance in  
 19 schedule III (other than gamma hydroxybutyric  
 20 acid), or 30 milligrams of flunitrazepam”; and

21                       (C) by inserting at the end the following:

22                       “(E)(i) In the case of any controlled substance  
 23 in schedule III, such person shall be sentenced to a  
 24 term of imprisonment of not more than 10 years  
 25 and if death or serious bodily injury results from the

1 use of such substance shall be sentenced to a term  
2 of imprisonment of not more than 20 years, a fine  
3 not to exceed the greater of that authorized in ac-  
4 cordance with the provisions of title 18, or \$500,000  
5 if the defendant is an individual or \$2,500,000 if the  
6 defendant is other than an individual, or both.

7 “(ii) If any person commits such a violation  
8 after a prior conviction for a felony drug offense has  
9 become final, such person shall be sentenced to a  
10 term of imprisonment of not more than 20 years  
11 and if death or serious bodily injury results from the  
12 use of such substance shall be sentenced to a term  
13 of imprisonment of not more than 30 years, a fine  
14 not to exceed the greater of twice that authorized in  
15 accordance with the provisions of title 18, or  
16 \$1,000,000 if the defendant is an individual or  
17 \$5,000,000 if the defendant is other than an indi-  
18 vidual, or both.

19 “(iii) Any sentence imposing a term of impris-  
20 onment under this subparagraph shall, in the ab-  
21 sence of such a prior conviction, impose a term of  
22 supervised release of at least 2 years in addition to  
23 such term of imprisonment and shall, if there was  
24 such a prior conviction, impose a term of supervised

1 release of at least 4 years in addition to such term  
2 of imprisonment”;

3 (2) in paragraph (2) by—

4 (A) striking “3 years” and inserting “5  
5 years”;

6 (B) striking “6 years” and inserting “10  
7 years”;

8 (C) striking “after one or more prior con-  
9 victions” and all that follows through “have be-  
10 come final,” and inserting “after a prior convic-  
11 tion for a felony drug offense has become  
12 final,”; and

13 (3) in paragraph (3) by—

14 (A) striking “2 years” and inserting “6  
15 years”;

16 (B) striking “after one or more convic-  
17 tions” and all that follows through “have be-  
18 come final,” and inserting “after a prior convic-  
19 tion for a felony drug offense has become  
20 final,”; and

21 (C) adding at the end the following “Any  
22 sentence imposing a term of imprisonment  
23 under this paragraph may, if there was a prior  
24 conviction, impose a term of supervised release

1 of not more than 1 year, in addition to such  
2 term of imprisonment.”

3 (g) OFFENSES INVOLVING DISPENSING OF CON-  
4 TROLLED SUBSTANCES BY MEANS OF THE INTERNET.—  
5 Section 401 of the Controlled Substances Act (21 U.S.C.  
6 841) is amended by adding at the end the following:

7 “(g) OFFENSES INVOLVING DISPENSING OF CON-  
8 TROLLED SUBSTANCES BY MEANS OF THE INTERNET.—  
9 (1) Except as authorized by this title, it shall be unlawful  
10 for any person to knowingly or intentionally cause or fa-  
11 cilitate the delivery, distribution, or dispensing by means  
12 of the Internet of a controlled substance.

13 “(2) Violations of this subsection include—

14 “(A) delivering, distributing, or dispensing a  
15 controlled substance by means of the Internet by a  
16 pharmacy not registered under section 303(i);

17 “(B) writing a prescription for a controlled sub-  
18 stance for the purpose of dispensing by means of the  
19 Internet in violation of subsection 309(e); and

20 “(C) serving as an agent, intermediary, or other  
21 entity that causes the Internet to be used to bring  
22 together a buyer and seller to engage in the dis-  
23 pensing of a controlled substance in a manner not  
24 authorized by sections 303(i) or 309(e).

25 “(3) This subsection does not apply to—

1           “(A) the distribution of controlled substances  
2           by nonpractitioners to the extent authorized by their  
3           registration under this title;

4           “(B) the placement on the Internet of material  
5           that merely advocates the use of a controlled sub-  
6           stance or includes pricing information without at-  
7           tempting to propose or facilitate an actual trans-  
8           action involving a controlled substance; or

9           “(C)(i) the dispensing or selling of a prescrip-  
10          tion drug pursuant to telemedicine practices spon-  
11          sored by—

12                 “(I) a hospital that has in effect a provider  
13                 agreement under title XVIII of the Social Secu-  
14                 rity Act (relating to the Medicare program); or

15                 “(II) a group practice that has not fewer  
16                 than 100 physicians who have in effect provider  
17                 agreements under such title; or

18           “(ii) the dispensing or selling of a prescription  
19          drug pursuant to practices that promote the public  
20          health, as determined by the Secretary of Health  
21          and Human Services by regulation.

22          “(4) Any person who knowingly or intentionally vio-  
23          lates this subsection shall be sentenced in accordance with  
24          subsection (b) of this section.”.

1 (h) OFFENSES INVOLVING THE DISPENSING OF PRE-  
 2SCRIPTION DRUGS BY MEANS OF THE INTERNET.—

3 (1) IN GENERAL.—Part D of the Controlled  
 4Substances Act (21 U.S.C. 841 et seq.) is amended  
 5by inserting after section 403 the following:

6 **“SEC. 403A. PENALTY FOR UNLAWFUL SALE OF PRESCRIP-**  
 7 **TION DRUGS BY MEANS OF THE INTERNET.**

8 “(a) PROHIBITED ACT.—

9 “(1) IN GENERAL.—Except as authorized by  
 10this title, it shall be unlawful for any person to  
 11knowingly or intentionally cause or facilitate the de-  
 12livery, distribution, or dispensing by means of the  
 13Internet of a prescription drug.

14 “(2) VIOLATIONS.—Violations of this subsection  
 15include—

16 “(A) delivering, distributing, or dispensing  
 17a prescription drug by means of the Internet by  
 18a pharmacy not registered under section 303(i);

19 “(B) writing a prescription for a prescrip-  
 20tion drug for the purpose of dispensing by  
 21means of the Internet in violation of subsection  
 22309(e); and

23 “(C) serving as an agent, intermediary, or  
 24other entity that causes the Internet to be used  
 25to bring together a buyer and seller to engage



1 in the dispensing of a prescription drug in a  
2 manner not authorized by sections 303(i) or  
3 309(e).

4 “(b) PENALTIES.—Any person who violates sub-  
5 section (a)—

6 “(1) shall be fined under title 18, United States  
7 Code, imprisoned not more than 1 year, or both; or

8 “(2) if the violation was committed after 1 or  
9 more prior convictions of the offender for an offense  
10 punishable under subsection (a), or for a crime  
11 under any other provision of this title or title III or  
12 any other law of the United States relating to nar-  
13 cotic drugs, marijuana, or depressant or stimulant  
14 substances have become final, shall be fined under  
15 title 18, United States Code, imprisoned not more  
16 than 2 years, or both.

17 “(c) FORFEITURE.—

18 “(1) A person convicted of a violation of sub-  
19 section (a) shall forfeit to the United States any in-  
20 terest of such person in any property involved in or  
21 derived from such violation.

22 “(2) Any property subject to forfeiture under  
23 paragraph (1) may be forfeited to the United States  
24 in accordance with the procedures under chapter 46  
25 of title 18, United States Code.

1       “(d) EXCEPTIONS.—Subsections (a) through (c) do  
2 not apply to—

3           “(1) the dispensing or selling of a prescription  
4 drug pursuant to telemedicine practices sponsored  
5 by—

6           “(A) a hospital that has in effect a pro-  
7 vider agreement under title XVIII of the Social  
8 Security Act (relating to the Medicare pro-  
9 gram); or

10          “(B) a group practice that has not fewer  
11 than 100 physicians who have in effect provider  
12 agreements under such title; or

13          “(2) the dispensing or selling of a prescription  
14 drug pursuant to practices that promote the public  
15 health, as determined by the Secretary of Health  
16 and Human Services by regulation.”.

17          (2) CONFORMING AMENDMENT.—The table of  
18 contents for the Comprehensive Drug Abuse Preven-  
19 tion and Control Act of 1970 (Public Law 91–513;  
20 84 Stat. 1236) is amended by inserting after the  
21 item relating to section 403 the following:

“403A. Penalty for Unlawful Sale of Prescription Drugs By Means of the Inter-  
net.”.

22          (i) PUBLICATION.—Section 403(c) of the Controlled  
23 Substances Act (21 U.S.C. 843(c)) is amended by—

24           (1) designating the text as paragraph (1); and

1           (2) adding at the end the following:

2           “(2)(A) It shall be unlawful for any person to use  
3 the Internet, or cause the Internet to be used, to advertise  
4 the sale of, or to offer to sell, distribute, or dispense, a  
5 controlled substance or prescription drug except as au-  
6 thorized by this title.

7           “(B) Violations of this paragraph include causing the  
8 placement on the Internet of an advertisement that refers  
9 to or directs prospective buyers to sellers of controlled sub-  
10 stances or prescription drugs who are not registered under  
11 section 303(i).

12           “(C) This paragraph does not apply to material that  
13 either—

14               “(i) advertises the distribution of controlled  
15 substances or prescription drugs by nonpractitioners  
16 to the extent authorized by their registration under  
17 this title; or

18               “(ii) merely advocates the use of a controlled  
19 substance or prescription drug or includes pricing  
20 information without attempting to facilitate an ac-  
21 tual transaction involving a controlled substance or  
22 prescription drug.”.

23           (j) INJUNCTIVE RELIEF.—Section 512 of the Con-  
24 trolled Substances Act (21 U.S.C. 882) is amended by

1 adding to the end of the section the following new sub-  
 2 section:

3       “(c) STATE CAUSE OF ACTION PERTAINING TO ON-  
 4 LINE PHARMACIES.—(1) In any case in which the State  
 5 has reason to believe that an interest of the residents of  
 6 that State has been or is being threatened or adversely  
 7 affected by the action of a person, entity, or Internet site  
 8 that violates the provisions of section 303(i), 309(e), or  
 9 311, the State may bring a civil action on behalf of such  
 10 residents in a district court of the United States with ap-  
 11 propriate jurisdiction—

12               “(A) to enjoin the conduct which violates this  
 13 section;

14               “(B) to enforce compliance with this section;

15               “(C) to obtain damages, restitution, or other  
 16 compensation, including civil penalties under section  
 17 402(b); and

18               “(D) to obtain such other legal or equitable re-  
 19 lief as the court may find appropriate.

20       “(2)(A) Prior to filing a complaint under paragraph  
 21 (1), the State shall serve a copy of the complaint upon  
 22 the Attorney General and upon the United States Attor-  
 23 ney for the judicial district in which the complaint is to  
 24 be filed. In any case where such prior service is not fea-  
 25 sible, the State shall serve the complaint on the Attorney

1 General and the appropriate United States Attorney on  
2 the same day that the State’s complaint is filed in Federal  
3 district court of the United States. Such proceedings shall  
4 be independent of, and not in lieu of, criminal prosecutions  
5 or any other proceedings under this title or any other laws  
6 of the United States.

7 “(B)(i) Not later than 120 days after the later of the  
8 date on which a State’s complaint is served on the Attor-  
9 ney General and the appropriate United States Attorney,  
10 or the date on which the complaint is filed, the United  
11 States shall have the right to intervene as a party in any  
12 action filed by a State under paragraph (1).

13 “(ii) After the 120-day period described in clause (i)  
14 has elapsed, the United States may, for good cause shown,  
15 intervene as a party in an action filed by a State under  
16 paragraph (1).

17 “(iii) Notice and an opportunity to be heard with re-  
18 spect to intervention shall be afforded the State that filed  
19 the original complaint in any action in which the United  
20 States files a complaint in intervention under clause (i)  
21 or a motion to intervene under clause (ii).

22 “(iv) The United States may file a petition for appeal  
23 of a judicial determination in any action filed by a State  
24 under this section.

1       “(C) Service of a State’s complaint on the United  
2 States as required in this paragraph shall be made in ac-  
3 cord with the requirements of Federal Rule of Civil Proce-  
4 dure 4(i)(1).

5       “(3) For purposes of bringing any civil action under  
6 paragraph (1), nothing in this Act shall prevent an attor-  
7 ney general of a State from exercising the powers con-  
8 ferred on the attorney general of a State by the laws of  
9 such State to conduct investigations or to administer oaths  
10 or affirmations or to compel the attendance of witnesses  
11 of or the production of documentary or other evidence.

12       “(4) Any civil action brought under paragraph (1) in  
13 a district court of the United States may be brought in  
14 the district in which the defendant is found, is an inhab-  
15 itant, or transacts business or wherever venue is proper  
16 under section 1391 of title 28, United States Code. Proc-  
17 ess in such action may be served in any district in which  
18 the defendant is an inhabitant or in which the defendant  
19 may be found.

20       “(5) No private right of action is created under this  
21 subsection.”.

22       (k) FORFEITURE OF FACILITATING PROPERTY IN  
23 DRUG CASES.—Section 511(a)(4) of the Controlled Sub-  
24 stances Act (21 U.S.C. 881(a)(4)) is amended to read as  
25 follows:

1           “(4) Any property, real or personal, tangible or  
 2           intangible, used or intended to be used to commit,  
 3           or to facilitate the commission, of a violation of this  
 4           title or title III, and any property traceable there-  
 5           to.”.

6           (l) IMPORT AND EXPORT ACT.—Section 1010(b) of  
 7           the Controlled Substances Import and Export Act (21  
 8           U.S.C. 960(b)) is amended—

9           (1) in paragraph (4) by—

10           (A) striking “or any quantity of a con-  
 11           trolled substance in schedule III, IV, or V, (ex-  
 12           cept a violation involving flunitrazepam and ex-  
 13           cept a violation involving gamma hydroxy-  
 14           butyric acid)”;

15           (B) inserting “, or” before “less than one  
 16           kilogram of hashish oil”; and

17           (C) striking “imprisoned” and all that fol-  
 18           lows through the end of the paragraph and in-  
 19           serting “sentenced in accordance with section  
 20           401(b)(1)(D) of this title (21 U.S.C.  
 21           841(b)(1)(E)).”;

22           (2) by adding at the end the following:

23           “(5) In the case of a violation of subsection (a) of  
 24           this section involving a controlled substance in schedule

1 III, such person shall be sentenced in accordance with sec-  
 2 tion 401(b)(1)(E).

3 “(6) In the case of a violation of subsection (a) of  
 4 this section involving a controlled substance in schedule  
 5 IV (except a violation involving flunitrazepam), such per-  
 6 son shall be sentenced in accordance with section  
 7 401(b)(2).

8 “(7) In the case of a violation of subsection (a) of  
 9 this section involving a controlled substance in schedule  
 10 V, such person shall be sentenced in accordance with sec-  
 11 tion 401(b)(3).”; and

12 (3) in paragraph (3), by striking “, nor shall a  
 13 person so sentenced be eligible for parole during the  
 14 term of such a sentence” in the final sentence.

15 (m) EFFECTIVE DATE.—The amendments made by  
 16 this Act shall become effective 60 days after the date of  
 17 enactment of this Act.

18 (n) GUIDELINES AND REGULATIONS.—

19 (1) IN GENERAL.—The Attorney General may  
 20 promulgate and enforce any rules, regulations, and  
 21 procedures which may be necessary and appropriate  
 22 for the efficient execution of functions under this  
 23 subtitle, including any interim rules necessary for  
 24 the immediate implementation of this Act, on its ef-  
 25 fective date.



1           (2) SENTENCING GUIDELINES.—The United  
2       States Sentencing Commission, in determining  
3       whether to amend, or establish new, guidelines or  
4       policy statements, to conform the guidelines and pol-  
5       icy statements to this Act and the amendments  
6       made by this Act, may not construe any change in  
7       the maximum penalty for a violation involving a con-  
8       trolled substance in a particular schedule as requir-  
9       ing an amendment to, or establishing a new, guide-  
10      line or policy statement.

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